Section 3 Program

A 1968 Housing and Urban Development Act

Section 3 Plan / Contractor Orientation Guide

"To ensure that employment and economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible and consistent with existing federal, state and local laws and regulations, be directed to low- and very low income persons."

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Table of Contents

Section 3 Policy Guidelines **3**

- **Background** **3**
- **General Policy Statement** **3**
- **Policy Definitions** **3**
- **Compliance** **5**
  - *Responsibilities* *5*
- **Training/Outreach Efforts Advisory Meeting** **6**
- **Order of Providing Preference** **6**
- **Numerical Goals** **7**
  - *Employment* *7*
  - *Contracting* *7*
- **Section 3 Requirements** **7**
- **General Contractor (GC)/Owner Outreach Requirements** **8**
- **Subcontractor Outreach Requirements** **8**
- **Documentation Requirements** **9**
- **Signage** **10**
- **Record Maintenance and Documentation** **10**
- **Preference for Section 3 Business Concerns** **10**
- **Competitive Bids** **10**
- **Safe Harbor and Compliance Determinations** **11**
- **Data Collection and Reporting** **12**
  - *Monthly Reporting* *12*
  - *Annual Reporting* *12*
- **Grievance Procedure for Section 3 Non-Compliance** **12**
- **Enforcement of the Section 3 Requirements** **12**
- **Availability of Information on Department's Website** **13**

Section 3 Outreach Potential Umbrella Agencies **13**

2014 HUD Income Limits **15**

Section 3 Regulations **16**

Compliance Forms **34**

Section 3 Policy Guidelines

Background

Section 3 of the Housing and Urban Development (HUD) Act of 1968, (12U.S.C 1701u) (Section3) and regulations at 24 CFR 135 were mandated in efforts to achieve a national objective. Implementing this act and regulations ensures employment and other economic opportunities generated by certain HUD financial assistance shall to the greatest extent feasible be directed to low and very low income persons, particularly those who are recipients of government assistance for housing and business concerns, which provide economic opportunities. This implementation is consistent with existing Federal, State, and local laws and regulations.

General Policy Statement

The City of Houston's Housing and Community Development Department Section 3 of Compliance and Monitoring Division adopts the above Economic Opportunities Policy for section 3 covered contracts. Section 3 of Compliance and Monitoring Division has implemented a policy that will provide better economic opportunities for low and very low income persons residing in the Houston area, and businesses that provide these opportunities for low and very low income persons. Opportunities will be provided in the form of training, contracting and employment.

The rule that triggers implementation of Section 3 requirements is "**new"** employment. Federally funded projects in excess of $200,000, and contracts in excess of $100,000 are required to follow the policy and procedures of Section 3 once the need for "new" employment is established. The Section 3 requirements only apply to construction contractors who install materials and or equipment (see the definition of "Section 3 Covered Contracts"). Therefore, <u>contractors who only furnish materials or supplies through Section 3 covered assistance are exempt.</u>

The Policy does not require the employment of Section 3 residents or contractors who do not meet the qualifications for the position(s) to be filled, or who cannot fulfill the contract requirements.

Policy Definitions

Section 3 of Compliance and Monitoring Division incorporates into this policy the definitions contained in § 135.5 of 24 CFR Part 135.

Section 3 – means the section 3 provision of the Housing and Urban Development Act of 1968.

Section 3 Recipient - means any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferees of any such entity, but does

not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

Section 3 Residents - A section 3 resident is (1) a public housing resident; or 2) a low- and very low-income person residing in the metropolitan area or Non-metropolitan County in which the Section 3 covered assistance is expended.

Section 3 Business Concerns - Section 3 Business Concerns are businesses that can provide evidence that they meet one of the following: a) 51% or more owned by Section 3 residents; or b) at least 30% of its full time permanent employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or c) provides evidence, as required, of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications as stated above.

Section 3 Covered Assistance - Public and Indian housing development, operating or capital funds; or other housing assistance and community development assistance expended for housing rehabilitation, housing construction or other public construction projects, such as: CDBG, HOME, 202/811, Lead-Based Paint Abatement, etc.

Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:

1. Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
2. Housing construction; or
3. Other public construction project (which includes other buildings or improvements, regardless of ownership).

Section 3 Covered Contract - means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 Covered Assistance, or for work arising in connection with a Section 3 Covered Project. "Section 3 Covered Contracts" do not include contracts awarded under HUD procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). "Section 3 Covered Contracts" also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 Covered Contract. For example, a contract for the purchase and installation of a furnace would be a Section 3 Covered Contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by Section 3.

Section 3 Covered Project – means the construction or rehabilitation of housing (including reduction of lead-based paint hazards), or other public construction such as street repair, sewage line repair or installation, updates to building facades, etc.

Section 3 Covered Community Planning and Development Funding - Community Development Block Grants (CDBG), Home Investment Partnership Assistance (HOME), Emergency Shelter Grants (ESG), Neighborhood Stabilization Programs (NSP), and certain grants awarded under HUD Notices of Funding Availability (NOFAs). The requirements for Section 3 only apply to the portion(s) of covered funding that were used for project/activities involving housing construction, rehabilitation, demolition, or other public construction.

Compliance

HUD and Texas General Land Office (GLO) hold Section 3 of Compliance and Monitoring Division accountable for the monitoring and enforcement of Section 3 compliance requirements. Therefore, the Section 3 requirements remain as a part of the agreements with each recipient/contractor.

Responsibilities: (Recipient)

1. A Recipient that receives community development or housing assistance covered federal funding, bears the responsibility to comply with Section 3 in its own operations. Responsibilities include:

    a. Notifying Section 3 residents about employment & training opportunities and businesses about contracts generated by Section 3 covered assistance;

    b. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;

    c. Notifying potential contractors of the Section 3 objectives and ways in which each contractor can assist the sub-recipient to meet its numerical goal; and

    d. Documenting the action that the sub-recipient takes to comply with the Section 3 requirements, the results of the actions, and impediments, if any.

2. Recipients bear the responsibility to "ensure compliance" of contractors and subcontractors. This means that a sub-recipient must:

    a. Incorporate the Section 3 Clause into contract documents;

    b. Meets and discusses the section 3 requirements, and responsibilities with potential developer/contractor prior to commencement of work, providing additional technical assistance when needed;

    c. Conduct compliance reviews consisting of detailed analysis and evaluation of the contractors compliance with section 3 requirements;

    d. Notify contractor of non-compliance and cooperate with HUD in directing instruction to obtaining compliance of regulation 24 CFR Part 135;

    e. Refrain from entering into contracts with contractors that are in violation of the regulations in 24 CFR Part 135;

    f. Respond to complaints made to the recipient by Section 3 residents or business concerns that the sub-recipient, a contractor or subcontractor, is not in compliance with 24 CFR Part 135.

The performance of each recipient(s) is evaluated during and at the completion of construction work. High performance is expected for future funding consideration.

Training/Outreach Efforts Advisory Meeting

In order to educate and inform new residents and contractors, Section 3 of Compliance and Monitoring Division provides training/ technical assistance on a regular basis per program guidelines. That will include:

1. Conduct training throughout the community and provide information/ handout about Section 3 requirements.
2. Attend training sessions and provide assistance for the group of residents referred by the local workforce centers, community colleges, Public Housing Authority, and Community groups, and those who attend job fairs, when available.
3. Offer training and employment opportunities to low-income to very low-income residents by certifying them as a Section 3 Resident.
4. Offer contracting opportunities to small businesses by certifying as a Section 3 Business Concern. Businesses must qualify under one of the following three categories:
    - A majority 51% or more ownership of business shall be held by low to very- low income residents of the City of Houston.
    - At least 30% of employees of the business are low to very-low income residents, residing in the City of Houston.
    - More than 25% of all contract work shall be performed by businesses that meet either of the requirements set forth in 1 and 2 above.

Order of Providing Preference

To demonstrate compliance with the "greatest extent feasible" requirement of Section 3, contractors must provide training, employment and contracting opportunities generated from the expenditures of section 3 covered assistance in order of priority, pursuant to § 135.34, 24 CFR Part 135:

First Priority - Section 3 residents residing in the service area or neighborhood in which the section 3 covered project is located.

Second Priority- Participants in HUD Youthbuild programs in which the section 3 covered assistance work is to be performed.

Third Priority - Where the section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 *et seq.*), homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority.

Fourth Priority - Other persons from the metropolitan area who meet the definition of Section 3 resident contained in § 135.5 of 24 CFR Part 135.

Numerical Goals

All contractors who undertake Section 3 covered projects and activities are expected to meet or exceed the Section 3 numerical goal requirements.

Employment: The minimum goal for employment of low and very low income persons residing in the metropolitan area is:

Thirty percent (30%) of all new hires. For example, if 10 new hires are needed, then 3 of the new employees should be Section 3 residents.

Contracting: The minimum goals for contracting are:

Ten percent (10%) of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing or building trades work arising in connection with housing rehabilitation, housing construction and other public construction, shall be awarded to Section 3 businesses;

Three percent (3%) of the total dollar amount of all non-construction Section 3 covered contracts shall be awarded to Section 3 businesses.

Section 3 Requirements

The applicability of the Section 3 participation is based upon three numerical goals (*see* Numerical Goals) and it will become enforceable when:

- A project receives a minimum amount of $200,000 of federal grant(s)
- A contract in excess of $100,000,
- "NEW" employment or contract opportunities become available /necessary.

What triggers Section 3:

- If federal grants are only utilized for **acquisition** of a property, Section 3 requirements **will not be triggered/enforced.**
- If federal grants are utilized for acquisition and additional costs associated with the design, planning, specifications, surveying, plating, and etc. (non-construction or soft cost), **the 3% Section 3 numerical goal will be applicable to the estimated cost of non-construction expenses/soft cost.**
- If federal grants are allocated for both **acquisition and construction** of a facility, Section 3 requirements will be applicable and enforced to the construction as well as non-construction (soft cost).
- If federal grants and private funds are both utilized for the construction of a facility, the Section 3 requirements will be applicable to the entire amount of construction value.

General Contractor (GC)/Owner Outreach Requirements

To ensure compliance with the Section3 requirements, Section 3 of Compliance and Monitoring Division has established the following process to maximize Section 3 participation:

1. If the GC has been selected by recipient/owner without the procurement process or when the recipient/owner acts as a GC.

- The GC is required to submit the entire scope of work for the completion of the project to Section 3 of Compliance and Monitoring Division.
- Upon submission of the scope of work to Section 3 of Compliance and Monitoring Division, the General Contractor will be required to advertise the contracting opportunity in the local newspaper, Workforce Solutions Center and WorkInTexas.com.
- Section 3 of Compliance and Monitoring Division prepares the Ebid and submits the same to all certified Section 3 Businesses listed on Section 3 database.
- Bids from the Section 3 Businesses are due in two weeks, unless it is determined otherwise by the Section 3 of Compliance and Monitoring Division.
- Section 3 Businesses submit bid proposals to GCs on or prior to the established deadline.
- The GC submits a bid tabulation and utilization plan that also includes the selected Section 3 Businesses to satisfy the contracting numerical goals.

2. If the GC is selected through advertisement/procurement process.

- Scope of work will be prepared and submitted to Section 3 of Compliance and Monitoring Division by owner/developer.
- Owner/developer will be required to advertise the contracting opportunity in the local newspaper, Workforce Solutions Center and WorkInTexas.com.
- Section 3 of Compliance and Monitoring Division prepares the Ebid and sends out the contracting opportunity to all Section 3 Businesses and invites them to attend the pre-bid meeting.
- The Section 3 of Compliance and Monitoring Division will establish a deadline submission of the Section 3 bid proposals. Copies of bids must be provided to all GCs who attend the pre-bid meeting.
- GCs reviews and evaluates the Section3 bid proposals and submits bid to owner/developer accordingly.
- Within ten (10) days of the issuance of Notice of Intent to Award (NOIA), the GC prepares and submits a bid tabulation and utilization plan that includes Section 3 Business participation to Section 3 of Compliance and Monitoring Division.

Subcontractor Outreach Requirements

A subcontractor with contract(s) of $100,000 or more must follow the Ebid Procurement Process if "new" employment or contracting opportunities are needed to complete the scope of work.

- Scope of work will be prepared and submitted by the subcontractor to the GC; the GC will then submit the scope of work to Section 3 of Compliance and Monitoring Division.
- Section 3 of Compliance and Monitoring Division prepares the Ebid and sends out the employment/contracting opportunity to all **Certified Section 3 Residents and Businesses**, including Workforce Solution Center and WorkInTexas.com.
- Subcontractor submits a bid tabulation and utilization plan that also includes the selected Section 3 Businesses to satisfy the contracting numerical goals to the GC. GC will review the proposal and will then submit to Section 3 of Compliance and Monitoring Division.
- Certified Section 3 Residents submit applications and certified Section 3 Businesses submit bid proposals to subcontractor on or prior to the established deadline.
- Applications from certified Section 3 Residents and bid proposals from the certified Section 3 Businesses are due in two weeks, unless it is determined otherwise by the Section 3 of Compliance and Monitoring Division.
- To ensure compliance with the employment of certified Section 3 Residents, the subcontractor is required to submit a Section 3 monthly activity report to the GC. GC will review the monthly report and will then submit to Section 3 of Compliance and Monitoring Division.

Documentation Requirements

All subcontractors with a contract of $100,000 or more are required to submit a completed Section 3 Compliance Packet to the General Contractor, who in turn will submit the entire package to Section 3 of Compliance and Monitoring Division for review and approval. Review comments will be made available to both the developer and contractor within 10 days of the receipt of the documents. In completing the Compliance Packet the contractor and subcontractor will have provided the following information:

1. Identification of the project area
2. Certification of compliance to the Section 3 policy and regulations (24 CFR part 135).
3. Agreement to following preference rules and complete competitive bidding and to meet the numerical goals by providing training, employment, and contracting opportunities to Section 3 individuals and businesses.
4. Specific information about the current workforce.
5. Firm commitment to include as part of all bids, the Bid Tabulation and Section 3 Utilization Plan (once approved by the City),
6. Provide the Permanent Employee List and Request for Contractor Clearance for each contractor and subcontractor.
7. Firm commitment to conduct aggressive outreach and notification to potential Section 3 residents and businesses of hiring opportunities using site signage, flyers, etc.

Section 3 of Compliance and Monitoring Division requests specific workforce plan analysis for hiring & training Section 3 eligible residents and for engaging Section 3 certified business concerns.

Section 3 of Compliance and Monitoring Division also requests a firm commitment to provide identified area employment agencies of job availabilities from the established job pool of section 3 residents.

Signage

Section 3 signage should be posted at the construction sites. Signage must be at least 4 feet by 4 feet and it must be large enough to be visible from the street. The sign must (a) identify the name of the project, (b) states the facility is a HUD Section 3 Project, and (c) includes contact information (name, telephone number, fax, & e-mail, if any).

Record Maintenance and Documentation

All Section 3 projects are required to maintain comprehensive documentation of their Section 3 outreach efforts and implementation activities and must be able to have all documents available for review by City and/or HUD officials.

Preference for Section 3 Business Concerns

Preference shall be awarded to Section 3 Business Concerns according to the following system:

1. Where the Section 3 Covered Contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified Section 3 Business Concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified Section 3 Business Concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation. If it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source.
2. Where the Section 3 Covered Contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 15 to 25 percent of the total number of available rating points to be set aside for the provision of preference for Section 3 Business Concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating system.

Competitive Bids

Procurement by Sealed Bids (Invitations for Bids)

Preference in the award of Section 3 Covered Contracts that are awarded under a sealed bid process may be provided as follows:

Bids shall be solicited from all businesses (Section 3 Business Concerns, and non-Section 3 Business Concerns). An award shall be made to the qualified Section 3 Business Concern with the highest priority ranking and with the lowest responsive bid:

1. Bids shall be solicited from all businesses (i.e. Section 3 Business Concerns and non-Section 3 Business Concerns). An award shall be made to the qualified Section 3 Business Concern with the highest priority ranking (as defined in 24 CFR Part 135) and with the lowest responsive bid if that bid:
    a. is within the maximum total contract price established in HCDD's budget for the specific project for which bids are being taken; and

    b. is not more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:

        X = lesser of:

        When the lowest responsive bid is less than $100,000 . . . . 10% of that bid or $9,000

        When the lowest responsive bid is:

        At least $100,000, but less than $200,000..... 9% of that bid or $16,000

        At least $200,000, but less than $300,000.....8% of that bid or $21,000

        At least $300,000, but less than $400,000.....7% of that bid or $24,000

        At least $400,000, but less than $500,000.....6% of that bid or $25,000

        At least $500,000, but less than $1 million.....5% of that bid or $40,000

        At least $1 million, but less than $2 million.....4% of that bid or $60,000

        At least $2 million, but less than $4 million.....3% of that bid or $80,000

        At least $4 million, but less than $7 million.....2% of that bid or $105,000

        $7 million or more, 5% of the lowest responsive bid, with no dollar limit.

2. If no responsive bid by a Section 3 Business Concern meets the requirements of paragraph 1 of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

3. In both paragraph 1 and 2 above, a bidder, to be considered as responsible, must demonstrate compliance with the "greatest extent feasible" requirement of Section 3.

Safe Harbor and Compliance Determinations

In the absent of evidence to the contrary (i.e., evidence that efforts to the “greatest extent feasible” were not expended), if a recipient or contractor meets the minimum numerical goals shown above, the recipient or contractor is considered to have complied with Section 3 preference requirements.

In evaluating compliance, if the recipient has not met the numerical requirements, the recipient will be expected to demonstrate why it was not feasible to meet the goals. Ultimately, HUD will evaluate Section 3 of Compliance and Monitoring Division based on its ability to describe the efforts taken to meet the training, hiring, and contracting requirements and the impediments incurred despite actions taken.

At a minimum, if recipients of Section 3 Assistance are unable to meet their Section 3 training, hiring, and contracting goals, they should ***sponsor or participate*** in upward mobility programs, hire eligible residents in trainee positions with regard to training and employment, or form Section 3 joint ventures with various local employment agencies.

Data Collection and Reporting

Monthly and annual reports are collected, processed and distributed by the Section 3 Coordinator. Data collection and reports can be emailed to the designated Section 3 Coordinator, or mailed/hand-delivered to City of Houston HCDD, Section 3, 601 Sawyer, 4th Floor, Houston, TX 77007.

Monthly Reporting

1. Section 3 of Compliance and Monitoring Division requires the submittal of monthly activity reports due on the 10th day of each month during the construction cycle.
2. If a project is funded by GLO, it is policy of the Section 3 of Compliance and Monitoring Division to secure a copy of the GLO Section 3 monthly activity reports from the General Contractor and Subcontractors by the 5th of each month. The reports are due to the State on the 10th of each month. Section 3 of Compliance and Monitoring Division will then send the reports to **dr_status_reporting@glo.texas.gov**.

Annual Reporting

1. Once a project is completed projects should submit a final Section 3 cumulative report for the program year.
2. At project completion, Section 3 of Compliance and Monitoring Division will conduct a final review of the project's overall performance and compliance.
3. Section 3 of Compliance and Monitoring Division will submit annually to HUD (Form HUD-4010). Section 3 data is also captured on the Section 3 Summary Report of the Consolidated Annual Performance and Evaluation Report (CAPER) form 60002.

Grievance Procedure for Section 3 Non-Compliance

Written complaint **must** contain:

1. Valid name, address and contact information of the person filing the complaint;
2. Valid name, address, and contact information of the contractor/subcontractor the concern is levied against;
3. Dates and description of acts or omissions in alleged violation of Section 3; and
4. Statement of corrective action(s) sought, i.e. training, employment or contracts.

When a complaint is filed, the Section 3 of Compliance and Monitoring Division will be responsible to investigate the issue internally or may refer the concern to the HUD Field Office, if necessary.

Enforcement of the Section 3 Requirements

Projects overall compliance is tracked in Section 3's compliance database. The Section 3 Coordinator and staff, as assigned, provides regular assessments of project's status and compliance, allowing opportunity for correction pending moments of non-compliance. However, continuous violations and failure to comply with the Section 3 requirements (24 CFR **§ 135.38 Section 3 clauses** Part F) will result in:

1. Sanction and Debarment; or

2. Suspension; or
3. Limited denial of participation

When initial review of potential new HUD funded projects commence, record and reports of continuous violators will be submitted as recommendation of NO future HUD funding.

Availability of Information on Department's Website

A list of Section 3 Residents and Business Concerns, and information about the Section 3 program is included on the Section 3 website: www.houstontx.gov/housing/complianceandmonitoring.html

The web page includes:

1. An easy-to-use explanation of Section 3
2. All required forms/documents
3. The grievance procedure, with appropriate links to HUD's Frequently Asked Questions (FAQs)

Section 3 Outreach Potential Umbrella Agencies

The Section 3 of Compliance and Monitoring Division will send announcements for Section 3 applicable projects two calendar weeks prior to any closing date to the following listing community-based business organizations. Section 3 staff will continue to update this listing.

African American Chamber of Commerce of Greater Houston
(Formerly the Acres Home Citizens Chamber of Commerce)
6112 Wheatley Phone: (713) 692-7003
Houston, TX 77091 Fax: (713) 691-7131

Alliance of Minority Contractors of Houston
PO Box 920859 Phone: (713) 802-4154 Email: info@amc-houston.org
Houston, TX 77292-0859 Web: www.amc-houston.org

Asian Chamber of Commerce
6833 W Sam Houston Pkwy Phone: (713) 782-7222 Email: lindatoyota@asianchamber-hou.org
Ste 206 Fax: (713) 782-8676 Web: http://www.asianchamber-hou.org/
Houston, TX 77072

Association of Business Contractors - Houston
3910 Kirby Drive, Suite 131 Phone: (713) 523-6222 Email: a.burk@abchouston.org
Houston, TX 77098 Fax: (713) 874-0747 Web: http://www.abchouston.org/

City of Houston, Office of Business Opportunity
611 Walker Street, 7th Flr Phone: (832) 393-0623 Email: Roger.Harris@houstontx.gov
Houston, TX 77002 Fax: (832) 393-0646 Web: http://www.houstontx.gov/obo

Hispanic Chamber of Commerce
1801 Main St, Ste 1075 Phone: (713) 644-7070 Email: jmancilla@houstonhispanicchamber.com
Houston, TX 77002 Fax: (713) 644-7377 Web: http://www.houstonhispanicchamber.com/

Houston Citizens Chamber of Commerce
Email: info@hccoc.org Web: http://www.hccoc.org

National Association of Minority Contractors (NAMC Greater Houston)

3825 Dacoma Street Phone: (713) 843-3791 Email: info@namctexas.com
Houston, TX 77092 Fax: (713) 843-3701 Web: http://namctexas.com

Tri-County Black Chamber of Commerce

P.O. Box 88376 Phone: (832) 875-3977 Email: Info@tcbcc.net
Houston, TX 77288 Fax: (713) 839-7329 Web: http://tricountyblackchamber.org/

National Association of Women in Construction, Houston Branch (#0003)

327 South Adams Street Phone: (800) 552-3506 or (817) 877-5551
Fort Worth, TX 76104-1002 Email: membership@nawic.org

2014 HUD Income Limits

Houston-Baytown-Sugar Land

2014 Annual and Monthly Income Limits For

Extremely Low-Income, Very Low-Income and Low-Income Families under the Housing Act of 1937

Released December 2013

Persons in Household	30% of Median Extremely Low-Income		50% of Median Very Low-Income		80% of Median Low Income	
	Annual Income	Monthly Income	Annual Income	Monthly Income	Annual Income	Monthly Income
1	$14,000	$1,166	$23,350	$1,945	$37,350	$3,112
2	16,000	1,333	26,650	2,220	42,650	3,554
3	18,000	1,500	30,000	2,500	48,000	4,000
4	20,000	1,666	33,300	2,775	53,300	4,441
5	21,600	1,800	36,000	3,000	57,600	4,800
6	23,200	1,933	38,650	3,220	61,850	5,154
7	24,800	2,066	41,300	3,441	66,100	5,508
8	26,400	2,200	44,000	3,666	70,400	5,866

Section 3 Regulations
(CFR 135.1 24)

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§ 135.1 24 CFR Subtitle B, Ch. I (4–1–03 Edition)

APPENDIX TO PART 135

AUTHORITY: 12 U.S.C. 1701u; 42 U.S.C.3535(d).

SOURCE: 59 FR 33880, June 30, 1994, unless otherwise noted.

EFFECTIVE DATE NOTE: At 59 FR 33880, June 30, 1994, part 135 was revised effective August 1, 1994 through June 30, 1995. At 60 FR 28325, May 31, 1995, the effective period was extended until the final rule implementing changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992 is published and becomes effective.

Subpart A—General Provisions

§ 135.1 Purpose.

(a) *Section 3.* The purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

(b) *Part 135.* The purpose of this part is to establish the standards and procedures to be followed to ensure that the objectives of section 3 are met.

§ 135.2 Effective date of regulation.

The regulations of this part will remain in effect until the date the final rule adopting the regulations of this part with or without changes is published and becomes effective, at which point the final rule will remain in effect. [60 FR 28326, May 31, 1995]

§ 135.3 Applicability.

(a) *Section 3 covered assistance.* Section 3 applies to the following HUD assistance (section 3 covered assistance):

(1) *Public and Indian housing assistance.*

Section 3 applies to training, employment, contracting and other economic opportunities arising from the expenditure of the following public and Indian housing assistance:

(i) Development assistance provided pursuant to section 5 of the U.S. Housing Act of 1937 (1937 Act);

(ii) Operating assistance provided pursuant to section 9 of the 1937 Act; and

(iii) Modernization assistance provided pursuant to section 14 of the 1937 Act;

(2) *Housing and community development assistance.* Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance (including section 8 assistance, and including other housing assistance not administered by the Assistant Secretary of Housing) and community development assistance that is used for the following projects;

(i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);

(ii) Housing construction; and

(iii) Other public construction.

(3) *Thresholds*—(i) *No thresholds for section 3 covered public and Indian housing assistance.* The requirements of this part apply to section 3 covered assistance provided to recipients, notwithstanding the amount of the assistance provided to the recipient. The requirements of this part apply to all contractors and subcontractors

performing work in connection with projects and activities funded by public and Indian housing assistance covered by section 3, regardless of the amount of the contract or subcontract.

(ii) *Thresholds for section 3 covered housing and community development assistance*—(A) *Recipient thresholds.* The requirements of this part apply to recipients of other housing and community development program assistance for a section 3 covered project(s) for which the amount of the assistance exceeds $200,000.

(B) *Contractor and subcontractor thresholds.* The requirements of this part apply to contractors and subcontractors performing work on section 3 covered project(s) for which the amount of the assistance exceeds $200,000; and the contract or subcontract exceeds $100,000.

Office of Asst. Secy., Equal Opportunity, HUD § 135.5

(C) *Threshold met for recipients, but not contractors or subcontractors.* If a recipient receives section 3 covered housing or community development assistance in excess of $200,000, but no contract exceeds $100,000, the section 3 preference requirements only apply to the recipient.

(b) *Applicability of section 3 to entire project or activity funded with section 3 assistance.* The requirements of this part apply to the entire project or activity that is funded with section 3 covered assistance, regardless of whether the section 3 activity is fully or partially funded with section 3 covered assistance.

(c) *Applicability to Indian housing authorities and Indian tribes.* Indian housing authorities and tribes that receive HUD assistance described in paragraph (a) of this section shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). (See 24 CFR part 905.)

(d) *Other HUD assistance and other Federal assistance.* Recipients, contractors and subcontractors that receive HUD assistance, not listed in paragraph (a) of this section, or other Federal assistance, are encouraged to provide, to the greatest extent feasible, training, employment, and contracting opportunities generated by the expenditure of this assistance to low- and very low-income persons, and business concerns owned by low- and very low-income persons, or which employ low- and very low-income persons.

§ 135.5 Definitions.

The terms *Department, HUD, Indian housing authority (IHA), Public housing agency (PHA),* and *Secretary* are defined in 24 CFR part 5.

Annual Contributions Contract (ACC) means the contract under the U.S. Housing Act of 1937 (1937 Ac) between HUD and the PHA, or between HUD and the IHA, that contains the terms and conditions under which HUD assists the PHA or the IHA in providing decent, safe, and sanitary housing for low income families. The ACC must be in a form prescribed by HUD under which HUD agrees to provide assistance in the development, modernization and/or operation of a low income housing project under the 1937 Act, and the PHA or IHA agrees to develop, modernize and operate the project in compliance with all provisions of the ACC and the 1937 Act, and all HUD regulations and implementing requirements and procedures. (The ACC is not a form of procurement contract.)

Applicant means any entity which makes an application for section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency, Indian housing authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

Assistant Secretary means the Assistant Secretary for Fair Housing and Equal Opportunity.

Business concern means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

Business concern that provides economic opportunities for low- and very low-income persons. See definition of ''section 3 business concern'' in this section.

Contract. See the definition of ''section 3 covered contract'' in this section.

Contractor means any entity which contracts to perform work generated by the expenditure of section 3 covered assistance, or for work in connection with a section 3 covered project.

Employment opportunities generated by section 3 covered assistance means all employment opportunities generated by the expenditure of section 3 covered public and Indian housing assistance (i.e., operating assistance, development assistance and modernization assistance, as described in § 135.3(a)(1)). With respect to section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with section 3 covered projects (as described in § 135.3(a)(2)), including management and administrative jobs connected with the section 3 covered project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

Housing authority (HA) means, collectively, public housing agency and Indian housing authority.

Housing and community development assistance means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty.

Housing development means low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD's public and Indian housing program regulations codified in 24 CFR Chapter IX.

HUD Youthbuild programs mean programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

Indian tribes shall have the meaning given this term in 24 CFR part 571.

JTPA means the Job Training Partnership Act (29 U.S.C. 1579(a)).

Low-income person. See the definition of ''section 3 resident'' in this section.

Metropolitan area means a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

Neighborhood area means: (1) For HUD housing programs, a geographical location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local documents as a neighborhood, village, or similar geographical designation. (2) For HUD community development programs, see the definition, if provided, in the regulations for the applicable community development program, or the definition for this term in 24 CFR 570.204(c)(1).

New hires mean full-time employees for permanent, temporary or seasonal employment opportunities.

Nonmetropolitan county means any county outside of a metropolitan area.

Other HUD programs means HUD programs, other than HUD public and Indian housing programs, that provide housing and community development assistance for ''section 3 covered projects,'' as defined in this section.

Public housing resident has the meaning given this term in 24 CFR part 963.

Recipient means any entity which receives section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor,

assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which section 3 applies and does not include contractors.

Section 3 means section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern means a business concern, as defined in this section—(1) That is 51 percent or more owned by section 3 residents; or (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of ''section 3 business concern.''

Section 3 clause means the contract provisions set forth in § 135.38.

Section 3 covered activity means any activity which is funded by section 3 covered assistance public and Indian housing assistance.

Section 3 covered assistance means: (1) Public and Indian housing development assistance provided pursuant to section 5 of the 1937 Act; (2) Public and Indian housing operating assistance provided pursuant to section 9 of the 1937 Act; (3) Public and Indian housing modernization assistance provided pursuant to section 14 of the 1937 Act; (4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with: (i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement); (ii) Housing construction; or (iii) Other public construction project (which includes other buildings or improvements, regardless of ownership).

Section 3 covered contract means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of section 3 covered assistance, or for work arising in connection with a section 3 covered project. ''Section 3 covered contracts'' do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). ''Section 3 covered contracts'' also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by section 3.

Section 3 covered project means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

Section 3 joint venture. See § 135.40.

Section 3 resident means: (1) A public housing resident; or (2) An individual who resides in the metropolitan area or nonmetropolitan county in which the section 3 covered assistance is expended, and who is: (i) *A low-income person,* as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or (ii) *A very low-income person,* as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of

unusually high or low family incomes. (3) A person seeking the training and employment preference provided by section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

Section 8 assistance means assistance provided under section 8 of the 1937 Act (42 U.S.C. 1437f) pursuant to 24 CFR part 882, subpart G.

Service area means the geographical area in which the persons benefitting from the section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the section 3 covered assistance is expended. In HUD's Indian housing programs, the service area, for IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power, is limited to the area of tribal jurisdiction.

Subcontractor means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of section 3 covered assistance, or arising in connection with a section 3 covered project.

Very low-income person. See the definition of ''section 3 resident'' in this section.

Youthbuild programs. See the definition of ''HUD Youthbuild programs'' in this section.

[59 FR 33880, June 30, 1994, as amended at 61 FR 5206, Feb. 9, 1996]

§ 135.7 Delegation of authority.

Except as may be otherwise provided in this part, the functions and responsibilities of the Secretary under section 3, and described in this part, are delegated to the Assistant Secretary for Fair Housing and Equal Opportunity. The Assistant Secretary is further authorized to redelegate functions and responsibilities to other employees of HUD; *provided however,* that the authority to issue rules and regulations under this part, which authority is delegated to the Assistant Secretary, may not be re-delegated by the Assistant Secretary.

§ 135.9 Requirements applicable to HUD NOFAs for section 3 covered programs.

(a) *Certification of compliance with part 135.* All notices of funding availability (NOFAs) issued by HUD that announce the availability of funding covered by section 3 shall include a provision in the NOFA that notifies applicants that section 3 and the regulations in part 135 are applicable to funding awards made under the NOFA. Additionally the NOFA shall require as an application submission requirement (which may be specified in the NOFA or application kit) a certification by the applicant that the applicant will comply with the regulations in part 135. (For PHAs, this requirement will be met where a PHA Resolution in Support of the Application is submitted.) With respect to application evaluation, HUD will accept an applicant's certification unless there is evidence substantially challenging the certification.

(b) *Statement of purpose in NOFAs.* (1) For competitively awarded assistance in which the grants are for activities administered by an HA, and those activities are anticipated to generate significant training, employment or contracting opportunities, the NOFA must include a statement that one of the purposes of the assistance is to give to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns. (2) For competitively awarded assistance involving housing rehabilitation, construction or other public construction, where the amount awarded to the applicant may exceed $200,000, the NOFA must include a statement that one of the purposes of the assistance is to give, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(c) *Section 3 as NOFA evaluation criteria.* Where not otherwise precluded by statute, in the evaluation of applications for the award of assistance, consideration shall be given to the extent to which an applicant has demonstrated that it will train and employ section 3 residents and contract with section 3 business concerns for economic opportunities generated in connection with the assisted project or activity. The evaluation criteria to be utilized, and the rating points to be assigned, will be specified in the NOFA.

§ 135.11 Other laws governing training, employment, and contracting.

Other laws and requirements that are applicable or may be applicable to the economic opportunities generated from the expenditure of section 3 covered assistance include, but are not necessarily limited to those listed in this section.

(a) *Procurement standards for States and local governments (24 CFR 85.36)*—(1) *General.* Nothing in this part 135 prescribes specific methods of procurement. However, neither section 3 nor the requirements of this part 135 supersede the general requirement of 24 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner. Consistent with 24 CFR 85.36(c)(2), section 3 is a Federal statute that expressly encourages, to the maximum extent feasible, a geographic preference in the evaluation of bids or proposals. (2) *Flexible Subsidy Program.* Multifamily project mortgagors in the Flexible Subsidy Program are not required to utilize the methods of procurement in 24 CFR 85.36(d), and are not permitted to utilize methods of procurement that would result in their award of a contract to a business concern that submits a bid higher than the lowest responsive bid. A multifamily project mortgagor, however, must ensure that, to the greatest extent feasible, the procurement practices it selects provide preference to section 3 business concerns.

(b) *Procurement standards for other recipients (OMB Circular No. A–110).* Nothing in this part prescribes specific methods of procurement for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations. Consistent with the requirements set forth in OMB Circular No. A–110, section 3 is a Federal statute that expressly encourages a geographic preference in the evaluation of bids or proposals.

(c) *Federal labor standards provisions.* Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under Davis-Bacon Act (40 U.S.C. 276a—276a–7) and implementing U.S. Department of Labor regulations in 29 CFR part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public and Indian housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work. Apprentices and trainees may be utilized on this work only to the extent permitted under either Department of Labor regulations at 29 CFR part 5 or for work subject to HUD-determined prevailing wage rates, HUD policies and guidelines. These requirements include adherence to the
wage rates and ratios of apprentices or trainees to journeymen set out in ''approved apprenticeship and training programs,'' as described in paragraph (d) of this section.

(d) *Approved apprenticeship and trainee programs.* Certain apprenticeship and trainee programs have been approved by various Federal agencies. Approved apprenticeship and trainee programs include: an apprenticeship program approved by the Bureau of Apprenticeship and Training of the Department of Labor, or a State Apprenticeship Agency, or an on-the-job training program approved by the Bureau of Apprenticeship and Training, in accordance with the regulations at 29 CFR part 5; or a training program approved by HUD in accordance with HUD policies and guidelines, as applicable. Participation in an approved apprenticeship program does not, in and of itself, demonstrate compliance with the regulations of this part.

(e) *Compliance with Executive Order 11246.* Certain contractors covered by this part are subject to compliance with Executive Order 11246, as amended by Executive Order 12086, and the Department of Labor regulations issued pursuant thereto (41 CFR chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts.

Subpart B—Economic Opportunities for Section 3 Residents and Section 3 Business Concerns

§ 135.30 Numerical goals for meeting the greatest extent feasible requirement.

(a) *General.* (1) Recipients and covered contractors may demonstrate compliance with the ''greatest extent feasible'' requirement of section 3 by meeting the numerical goals set forth in this section for providing training, employment, and contracting opportunities to section 3 residents and section 3 business concerns. (2) The goals established in this section apply to the entire amount of section 3 covered assistance awarded to a recipient in any Federal Fiscal Year (FY), commencing with the first FY following the effective date of this rule. (3) For recipients

that do not engage in training, or hiring, but award contracts to contractors that will engage in training, hiring, and subcontracting, recipients must ensure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to section 3 residents and section 3 business concerns. (4) The numerical goals established in this section represent minimum numerical targets.

(b) *Training and employment.* The numerical goals set forth in paragraph (b) of this section apply to new hires. The numerical goals reflect the aggregate hires. Efforts to employ section 3 residents, to the greatest extent feasible, should be made at all job levels. (1) *Numerical goals for section 3 covered public and Indian housing programs.* Recipients of section 3 covered public and Indian housing assistance (as described in § 135.5) and their contractors and subcontractors may demonstrate compliance with this part by committing to employ section 3 residents as: (i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995; (ii) 20 percent of the aggregate number of new hires for the one period beginning in FY 1996; (iii) 30 percent of the aggregate number of new hires for one year period beginning in FY 1997 and continuing thereafter. (2) *Numerical goals for other HUD programs covered by section 3.* (i) Recipients of section 3 covered housing assistance provided under other HUD programs, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with this part by committing to employ section 3 residents as 10 percent of the aggregate number of new hires for each year over the duration of the section 3 project; (ii) Where a managing general partner or management agent is affiliated, in a given metropolitan area, with recipients of section 3 covered housing assistance, for an aggregate of 500 or more units in any fiscal year, the managing partner or management agent may demonstrate compliance with this part by committing to employ section 3 residents as: (A) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995; (B) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996; (C) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997, and continuing thereafter. (3) Recipients of section 3 covered community development assistance, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to employ section 3 residents as: (i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995; (ii) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996; and (iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter.

(c) *Contracts.* Numerical goals set forth in paragraph (c) of this section apply to contracts awarded in connection with all section 3 covered projects and section 3 covered activities. Each recipient and contractor and subcontractor (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to award to section 3 business concerns: (1) At least 10 percent of the total dollar amount of all section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and (2) At least three (3) percent of the total dollar amount of all other section 3 covered contracts.

(d) *Safe harbor and compliance determinations.* (1) In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the section 3 preference requirements. (2) In evaluating compliance under subpart D of this part, a recipient that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section. Such justification may include impediments encountered despite actions taken. A recipient or contractor also can indicate other economic opportunities, such as those listed in § 135.40, which were provided in its efforts to comply with section 3 and the requirements of this part.

§ 135.32 Responsibilities of the recipient.

Each recipient has the responsibility to comply with section 3 in its own operations, and ensure compliance in the operations of its contractors and subcontractors. This responsibility includes but may not be necessarily limited to:

(a) Implementing procedures designed to notify section 3 residents about training and employment opportunities generated by section 3 covered assistance and section 3 business concerns about contracting opportunities generated by section 3 covered assistance; (b) Notifying potential contractors for section 3 covered projects of the requirements of this part, and incorporating the section 3 clause set forth in § 135.38 in all solicitations and contracts. (c) Facilitating the training and employment of section 3 residents and the award of contracts to section 3 business concerns by undertaking activities such as described in the Appendix to this part, as appropriate, to reach the goals set forth in § 135.30. Recipients, at their own discretion, may establish reasonable numerical goals for the training and employment of section 3 residents and contract award to section 3 business concerns that exceed those specified in § 135.30; (d) Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR part 135.

(e) Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

(f) A State or county which distributes funds for section 3 covered assistance to units of local governments, to the greatest extent feasible, must attempt to reach the numerical goals set forth in 135.30 regardless of the number of local governments receiving funds from the section 3 covered assistance which meet the thresholds for applicability set forth at 135.3. The State or county must inform units of local government to whom funds are distributed of the requirements of this part; assist local governments and their contractors in meeting the requirements and objectives of this part; and monitor the performance of local governments with respect to the objectives and requirements of this part.

§ 135.34 Preference for section 3 residents in training and employment opportunities.

(a) *Order of providing preference.* Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents in the order of priority provided in paragraph (a) of this section. (1) *Public and Indian housing programs.* In public and Indian housing programs, efforts shall be directed to provide training and employment opportunities to section 3 residents in the following order of priority: (i) Residents of the housing development or developments for which the section 3 covered assistance is expended (category 1 residents); (ii) Residents of other housing developments managed by the HA that is expending the section 3 covered housing assistance (category 2 residents); (iii) Participants in HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 residents); (iv) Other section 3 residents. (2) *Housing and community development programs.* In housing and community development programs, priority consideration shall be given, where feasible, to: (i) Section 3 residents residing in the service area or neighborhood in which the section 3 covered project is located (collectively, referred to as category 1 residents); and (ii) Participants in HUD Youthbuild programs (category 2 residents). (iii) Where the section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 *et seq.*), homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority; (iv) Other section 3 residents. (3) Recipients of housing assistance programs administered by the Assistant Secretary for Housing may, at their own discretion, provide preference to residents of the housing development receiving the section 3 covered assistance within the service area or neighborhood where the section 3 covered project is located. (4) Recipients of community development programs may, at their own discretion, provide priority to recipients of government assistance for housing, including recipients of certificates or vouchers under the Section 8 housing assistance program, within the service area or neighborhood where the section 3 covered project is located.

(b) *Eligibility for preference.* A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person

is a section 3 resident, as defined in § 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

(c) *Eligibility for employment.* Nothing in this part shall be construed to require the employment of a section 3 resident who does not meet the qualifications of the position to be filled.

§ 135.36 Preference for section 3 business concerns in contracting opportunities.

(a) *Order of providing preference.* Recipients, contractors and subcontractors shall direct their efforts to award section 3 covered contracts, to the greatest extent feasible, to section 3 business concerns in the order of priority provided in paragraph (a) of this section. (1) *Public and Indian housing programs.* In public and Indian housing programs, efforts shall be directed to award contracts to section 3 business concerns in the following order of priority: (i) Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 1 businesses); (ii) Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the HA that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 2 businesses); or (iii) HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 businesses). (iv) Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, fulltime workforce includes no less than 30 percent section 3 residents (category 4 businesses), or that subcontract in excess of 25 percent of the total amount of subcontracts to business concerns identified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section. (2) *Housing and community development programs.* In housing and community development programs, priority consideration shall be given, where feasible, to: (i) Section 3 business concerns that provide economic opportunities for section 3 residents in the service area or neighborhood in which the section 3 covered project is located (category 1 businesses); and (ii) Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses); (iii) Other section 3 business concerns.

(b) *Eligibility for preference.* A business concern seeking to qualify for a section 3 contracting preference shall certify or submit evidence, if requested, that the business concern is a section 3 business concern as defined in § 135.5.

(c) *Ability to complete contract.* A section 3 business concern seeking a contract or a subcontract shall submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36(b)(8)).) This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

§ 135.38 Section 3 clause.

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause): A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations. C. The contractor agrees to send to each labor organization or

representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin. D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135. E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135. F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts. G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

§ 135.40 Providing other economic opportunities.

(a) *General.* In accordance with the findings of the Congress, as stated in section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with section 3 covered assistance.

(b) *Other training and employment related opportunities.* Other economic opportunities to train and employ section 3 residents include, but need not be limited to, use of ''upward mobility'', ''bridge'' and trainee positions to fill vacancies; hiring section 3 residents in management and maintenance positions within other housing developments; and hiring section 3 residents in part-time positions.

(c) *Other business related economic opportunities.* (l) A recipient or contractor may provide economic opportunities to establish, stabilize or expand section 3 business concerns, including micro-enterprises. Such opportunities include, but are not limited to the formation of section 3 joint ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from PHA resident-owned businesses and use of procedures under 24 CFR part 963 regarding HA contracts to HA resident-owned businesses. A recipient or contractor may employ these methods directly or may provide incentives to non-section 3 businesses to utilize such methods to provide other economic opportunities to low-income persons. (2) A *section 3 joint venture* means an association of business concerns, one of which qualifies as a section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the section 3 business concern: (i) Is responsible for a clearly defined portion of the work to be performed and holds management

responsibilities in the joint venture; and (ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

Subpart C [Reserved]

Subpart D—Complaint and Compliance Review

§ 135.70 General.

(a) *Purpose.* The purpose of this subpart is to establish the procedures for handling complaints alleging noncompliance with the regulations of this part, and the procedures governing the Assistant Secretary's review of a recipient's or contractor's compliance with the regulations in this part.

(b) *Definitions.* For purposes of this subpart:

(1) *Complaint* means an allegation of noncompliance with regulations of this part made in the form described in § 135.76(d).

(2) *Complainant* means the party which files a complaint with the Assistant Secretary alleging that a recipient or contractor has failed or refused to comply with the regulations in this part.

(3) *Noncompliance with section 3* means failure by a recipient or contractor to comply with the requirements of this part.

(4) *Respondent* means the recipient or contractor against which a complaint of noncompliance has been filed. The term ''recipient'' shall have the meaning set forth in § 135.7, which includes PHA and IHA.

§ 135.72 Cooperation in achieving compliance.

(a) The Assistant Secretary recognizes that the success of ensuring that section 3 residents and section 3 business concerns have the opportunity to apply for jobs and to bid for contracts generated by covered HUD financial assistance depends upon the cooperation and assistance of HUD recipients and their contractors and subcontractors. All recipients shall cooperate fully and promptly with the Assistant Secretary in section 3 compliance reviews, in investigations of allegations of noncompliance made under § 135.76, and with the distribution and collection of data and information that the Assistant Secretary may require in connection with achieving the economic objectives of section 3.

(b) The recipient shall refrain from entering into a contract with any contractor after notification to the recipient by HUD that the contractor has been found in violation of the regulations in this part. The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts or funding of any contractors or subcontractors during any period of debarment, suspension or otherwise ineligible status.

§ 135.74 Section 3 compliance review procedures.

(a) *Compliance reviews by Assistant Secretary.* The Assistant Secretary shall periodically conduct section 3 compliance reviews of selected recipients and contractors to determine whether these recipients are in compliance with the regulations in this part.

(b) *Form of compliance review.* A section 3 compliance review shall consist of a comprehensive analysis and evaluation of the recipient's or contractor's compliance with the requirements and obligations imposed by the regulations of this part, including an analysis of the extent to which section 3 residents have been hired and section 3 business concerns have been awarded contracts as a result of the methods undertaken by the recipient to achieve the employment, contracting and other economic objectives of section 3.

(c) *Where compliance review reveals noncompliance with section 3 by recipient or contractor.* Where the section 3 compliance review reveals that a recipient or contractor has not complied with section 3, the Assistant Secretary shall notify the recipient or contractor of its specific deficiencies in compliance with the regulations of this part, and shall advise the recipient or contractor of the means by which these deficiencies may be corrected. HUD shall conduct a follow-up review with the recipient or contractor to ensure that action is being taken to correct the deficiencies.

(d) *Continuing noncompliance by recipient or contractor.* A continuing failure or refusal by the recipient or contractor to comply with the regulations in this part may result in the application of sanctions specified in the

contract through which HUD assistance is provided, or the application of sanctions specified in the regulations governing the HUD program under which HUD financial assistance is provided. HUD will notify the recipient of any continuing failure or refusal by the contractor to comply with the regulations in this part for possible action under any procurement contract between the recipient and the contractor. Debarment, suspension and limited denial of participation pursuant to HUD's regulations in 24 CFR part 24, where appropriate, may be applied to the recipient or the contractor.

(e) *Conducting compliance review before the award of assistance.* Section 3 compliance reviews may be conducted before the award of contracts, and especially where the Assistant Secretary has reasonable grounds to believe that the recipient or contractor will be unable or unwilling to comply with the regulations in this part.

(f) *Consideration of complaints during compliance review.* Complaints alleging noncompliance with section 3, as provided in § 135.76, may also be considered during any compliance review conducted to determine the recipient's conformance with regulations in this part.

§ 135.76 Filing and processing complaints.

(a) *Who may file a complaint.* The following individuals and business concerns may, personally or through an authorized representative, file with the Assistant Secretary a complaint alleging noncompliance with section 3: (1) Any section 3 resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities generated from the expenditure of section 3 covered assistance with a recipient or contractor, or by a representative who is not a section 3 resident but who represents one or more section 3 residents; (2) Any section 3 business concern on behalf of itself, or as a representative of other section 3 business concerns similarly situated, seeking contract opportunities generated from the expenditure of section 3 covered assistance from a recipient or contractor, or by an individual representative of section 3 business concerns.

(b) *Where to file a complaint.* A complaint must be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC, 20410.

(c) *Time of filing.* (1) A complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown. (2) Where a complaint alleges noncompliance with section 3 and the regulations of this part that is continuing, as manifested in a number of incidents of noncompliance, the complaint will be timely if filed within 180 days of the last alleged occurrence of noncompliance. (3) Where a complaint contains incomplete information, the Assistant Secretary shall request the needed information from the complainant. In the event this information is not furnished to the Assistant Secretary within sixty (60) days of the date of the request, the complaint may be closed.

(d) *Contents of complaint*—(1) *Written complaints.* Each complaint must be in writing, signed by the complainant, and include: (i) The complainant's name and address; (ii) The name and address of the respondent; (iii) A description of the acts or omissions by the respondent that is sufficient to inform the Assistant Secretary of the nature and date of the alleged noncompliance; (iv) A complainant may provide information to be contained in a complaint by telephone to HUD or any HUD Field Office, and HUD will reduce the information provided by telephone to writing on the prescribed complaint form and send the form to the complainant for signature. (2) *Amendment of complaint.* Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to, amendments to cure, technical defects or omissions, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join additional or substitute respondents. Except for the purposes of notifying respondents, amended complaints will be considered as having been made as of the original filing date.

(e) *Resolution of complaint by recipient.* (1) Within ten (10) days of timely filing of a complaint that contains complete information (in accordance with paragraphs (c) and (d) of this section), the Assistant Secretary shall determine whether the complainant alleges an action or omission by a recipient or the recipient's contractor that

if proven qualifies as noncompliance with section 3. If a determination is made that there is an allegation of noncompliance with section 3, the complaint shall be sent to the recipient for resolution. (2) If the recipient believes that the complaint lacks merit, the recipient must notify the Assistant Secretary in writing of this recommendation with supporting reasons, within 30 days of the date of receipt of the complaint. The determination that a complaint lacks merit is reserved to the Assistant Secretary. (3) If the recipient determines that there is merit to the complaint, the recipient will have sixty (60) days from the date of receipt of the complaint to resolve the matter with the complainant. At the expiration of the 60-day period, the recipient must notify the Assistant Secretary in writing whether a resolution of the complaint has been reached. If resolution has been reached, the notification must be signed by both the recipient and the complainant, and must summarize the terms of the resolution reached between the two parties. (4) Any request for an extension of the 60-day period by the recipient must be submitted in writing to the Assistant Secretary, and must include a statement explaining the need for the extension. (5) If the recipient is unable to resolve the complaint within the 60-day period (or more if extended by the Assistant Secretary), the complaint shall be referred to the Assistant Secretary for handling.

(f) *Informal resolution of complaint by Assistant Secretary*—(1) *Dismissal of complaint.* Upon receipt of the recipient's written recommendation that there is no merit to the complaint, or upon failure of the recipient and complainant to reach resolution, the Assistant Secretary shall review the complaint to determine whether it presents a valid allegation of noncompliance with section 3. The Assistant Secretary may conduct further investigation if deemed necessary. Where the complaint fails to present a valid allegation of noncompliance with section 3, the Assistant Secretary will dismiss the complaint without further action. The Assistant Secretary shall notify the complainant of the dismissal of the complaint and the reasons for the dismissal. (2) *Informal resolution.* Where the allegations in a complaint on their face, or as amplified by the statements of the complainant, present a valid allegation of noncompliance with section 3, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. Where attempts to resolve the complaint informally fail, the Assistant Secretary will impose a resolution on the recipient and complainant. Any resolution imposed by the Assistant Secretary will be in accordance with requirements and procedures concerning the imposition of sanctions or resolutions as set forth in the regulations governing the HUD program under which the section 3 covered assistance was provided. (3) *Effective date of informal resolution.* The imposed resolution will become effective and binding at the expiration of 15 days following notification to recipient and complainant by certified mail of the imposed resolution, unless either party appeals the resolution before the expiration of the 15 days. Any appeal shall be in writing to the Secretary and shall include the basis for the appeal.

(g) *Sanctions.* Sanctions that may be imposed on recipients that fail to comply with the regulations of this part include debarment, suspension and limited denial of participation in HUD programs.

(h) *Investigation of complaint.* The Assistant Secretary reserves the right to investigate a complaint directly when, in the Assistant Secretary's discretion, the investigation would further the purposes of section 3 and this part.

(i) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person or business because the person or business has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising there under.

(j) *Judicial relief.* Nothing in this subpart D precludes a section 3 resident or section 3 business concerning from exercising the right, which may otherwise be available, to seek redress directly through judicial procedures.

(Approved by the Office of Management and Budget under control number 2529–0043)

Subpart E—Reporting and Recordkeeping

§ 135.90 Reporting.

Each recipient which receives directly from HUD financial assistance that is subject to the requirements of this part shall submit to the Assistant Secretary an annual report in such form and with such information as the Assistant Secretary may request, for the purpose of determining the effectiveness of section 3. Where the program providing the section 3 covered assistance requires submission of an annual performance report, the section 3 report will be submitted with that annual performance report. If the program providing the section 3 covered assistance does not require an annual performance report, the section 3 report is to be submitted by January 10 of each year or within 10 days of project completion, whichever is earlier. All reports submitted to HUD in accordance with the requirements of this part will be made available to the public.

(Approved by the Office of Management and Budget under control number 2529–0043)

§ 135.92 Recordkeeping and access to records.

HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program under which section 3 covered assistance is provided or otherwise made available to the recipient or contractor.

APPENDIX TO PART 135

I. Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents

(1) Entering into ''first source'' hiring agreements with organizations representing Section 3 residents.

(2) Sponsoring a HUD-certified ''Step-Up'' employment and training program for section 3 residents.

(3) Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.

(4) Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in § 135.34) reside.

(5) Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For HAs, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the section 3 covered project.

(6) Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.

(7) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by an HA or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the section 3 covered project.

(8) Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where category 1 or category 2 persons reside and in the neighborhood or service area in which a section 3 project is located.

(9) Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.

(10) Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the section 3 covered project.

(11) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the HA's or contractor's training and employment positions.
(12) Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the HA's or contractor's training and employment positions.
(13) Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
(14) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the section 3 business concerns identified in part 135), that will undertake, on behalf of the HA, other recipient or contractor, the efforts to match eligible and qualified section 3 residents with the training and employment positions that the HA or contractor intends to fill.
(15) For an HA, employing section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance. (This type of employment is referred to as ''force account labor'' in HUD's Indian housing regulations. See 24 CFR 905.102, and § 905.201(a)(6).)
(16) Where there are more qualified section 3 residents than there are positions to be filled, maintaining a file of eligible qualified section 3 residents for future employment positions.
(17) Undertaking job counseling, education and related programs in association with local educational institutions.
(18) Undertaking such continued job training efforts as may be necessary to ensure the continued employment of section 3 residents previously hired for employment opportunities.
(19) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other section 3 residents to be trained or employed on the section 3 covered assistance.
(20) Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.
II. Examples of Efforts To Award Contracts to Section 3 Business Concerns
(1) Utilizing procurement procedures for section 3 business concerns similar to those provided in 24 CFR part 905 for business concerns owned by Native Americans (see section III of this Appendix).
(2) In determining the responsibility of potential contractors, consider their record of section 3 compliance as evidenced by past actions and their current plans for the pending contract.
(3) Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying section 3 businesses which may solicit bids or proposals for contracts for work in connection with section 3 covered assistance.
(4) Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development or developments owned and managed by the HA.
(5) For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying category 1 and category 2 business concerns.
(6) Providing written notice to all known section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the section 3 business concerns to respond to the bid invitations or request for proposals.
(7) Following up with section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.
(8) Coordinating pre-bid meetings at which section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.

(9) Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.
(10) Advising section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
(11) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of section 3 business concerns.
(12) Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by section 3 business concerns.
(13) Contacting agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.
(14) Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
(15) Developing a list of eligible section 3 business concerns.
(16) For HAs, participating in the ''Contracting with Resident-Owned Businesses'' program provided under 24 CFR part 963.
(17) Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.
(18) Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to section 3 business concerns.
(19) Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.
(20) Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.
(21) Actively supporting joint ventures with section 3 business concerns.
(22) Actively supporting the development or maintenance of business incubators which assist Section 3 business concerns.

III. Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns

This Section III provides specific procedures that may be followed by recipients and contractors (collectively, referred to as the ''contracting party'') for implementing the section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR 85.36(d).
(1) *Small Purchase Procedures.* For section 3 covered contracts aggregating no more than $25,000, the methods set forth in this paragraph (1) or the more formal procedures set forth in paragraphs (2) and (3) of this Section III may be utilized.
(i) *Solicitation.* (A) Quotations may be solicited by telephone, letter or other informal procedure provided that the manner of solicitation provides for participation by a reasonable number of competitive sources. At the time of solicitation, the parties must be informed of: —the section 3 covered contract to be awarded with sufficient specificity; —the time within which quotations must be submitted; and —the information that must be submitted with each quotation. (B) If the method described in paragraph (i)(A) is utilized, there must be an attempt to obtain quotations from a minimum of three qualified sources in order to promote competition. Fewer than three quotations are acceptable when the contracting party has attempted, but has been unable, to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotation received in response to a solicitation provided the price is reasonable. In all cases, the contracting party shall document the circumstances when it has been unable to obtain at least three quotations.

(ii) *Award.* (A) Where the section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified section 3 business concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation. (B) Where the section 3 covered contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 15 to 25 percent of the total number of available rating points to be set aside for the provision of preference for section 3 business concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating system.

(2) *Procurement by sealed bids (Invitations for Bids).* Preference in the award of section 3 covered contracts that are awarded under a sealed bid (IFB) process may be provided as follows:

(i) Bids shall be solicited from all businesses (section 3 business concerns, and non-section 3 business concerns). An award shall be made to the qualified section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid—(A) is within the maximum total contract price established in the contracting party's budget for the specific project for which bids are being taken, and (B) is not more than ''X'' higher than the total bid price of the lowest responsive bid from any responsible bidder. ''X'' is determined as follows: x=lesser of:

When the lowest responsive bid is less than $100,000 ..... 10% of that bid or $9,000.

When the lowest responsive bid is:

At least $100,000, but less than $200,000 ..... 9% of that bid, or $16,000.

At least $200,000, but less than $300,000 ..... 8% of that bid, or $21,000.

At least $300,000, but less than $400,000 ..... 7% of that bid, or $24,000.

At least $400,000, but less than $500,000 ..... 6% of that bid, or $25,000.

At least $500,000, but less than $1 million ..... 5% of that bid, or $40,000.

At least $1 million, but less than $2 million ..... 4% of that bid, or $60,000.

At least $2 million, but less than $4 million ..... 3% of that bid, or $80,000.

At least $4 million, but less than $7 million ..... 2% of that bid, or $105,000.

$7 million or more ..... 1½% of the lowest responsive bid, with no dollar limit.

(ii) If no responsive bid by a section 3 business concern meets the requirements of paragraph (2)(i) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

(3) *Procurement under the competitive proposals method of procurement (Request for Proposals (RFP)).* (i) For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals (RFP) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.

(ii) One of the evaluation factors shall address both the preference for section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement (section 3 strategy), as disclosed in proposals submitted by all business concerns (section 3 and non-section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.

(iii) The component of this evaluation factor designed to address the preference for section 3 business concerns must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR 135.36.

(iv) With respect to the second component (the acceptability of the section 3 strategy), the RFP shall require the disclosure of the contractor's section 3 strategy to comply with the section 3 training and employment preference,

or contracting preference, or both, if applicable. A determination of the contractor's responsibility will include the submission of an acceptable section 3 strategy. The contract award shall be made to the responsible firm (either section 3 or non-section 3 business concern) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

Section 3 Compliance Forms

The following forms are included in the Section 3 Compliance Packet and additional required compliance documents:

Section 3 Compliance Forms **34**
Instructions for Compliance Forms **34**
Contractor Compliance Cover Sheet **37**
Contractor's Section 3 Compliance Certification **38**
First Source Hiring Agreement **40**
Permanent Employee List **42**
Workforce Analysis Form **43**
Section 3 Request for Contractor/Subcontractor Clearance **44**
Section 3 Internal Capacity Form **45**
Section 3 Ebid Announcement **46**
Section 3 Employment Opportunity Announcement (EOA) **47**
Sample Bid Tabulation **49**
Section 3 Utilization Plan **50**
Signage Template **51**
Section 3 Start of Work Notice **52**
Confirmation of Subcontractor Contract Amount **53**
Monthly Verification of Internal Capacity Status **54**
Section 3 Monthly Activity Report **55**
Section 3 New Hire/ Employee/ Trainee Participation Form **56**
Section 3 Termination of Work Notice **57**
General Land Office (GLO) Section 3 Documents **58**

Instructions for Compliance Forms

Contractor and Subcontractor (sub/contractor) shall fill out, sign and return to the City of Houston, Housing & Community Development Department, the following applicable forms at the times identified. All forms must be signed by a duly authorized member of the firm. If you have other pertinent information in addition to that requested on the forms, please include it as an attachment. Listed below are the forms which the sub/contractor must submit, if and when applicable:

Pg. #	Section 3 Compliance Packet	Deadline
37	Contractor Compliance Cover Sheet	Within 10 days after Notice of Intent to Award (NOIA) or executed Subcontract Agreement (SA).
38	Contractor Section 3 Compliance Certification	Within 10 days after NOIA or executed SA.
40	First Source Hiring Agreement	Within 10 days after NOIA or executed SA.
42	Permanent Employee List	Within 10 days after NOIA or executed SA.
43	Workforce Analysis Form	Within 10 days after NOIA or executed SA.
44	Request for Contractor Clearance	Within 10 days after NOIA or executed SA.
Pg. #	**Section 3 Procurement Compliance Documents**	**Deadline**
45	Section 3 Internal Capacity Form **Only submit form if sub/contractor does not have a need for lower-tier subs or new hires for the duration of the project.*	Prior to Start of Work date.
46	Section 3 E-bid Announcement	At least 3 weeks prior to start of work or when contracting opportunities become available.
47	Section 3 Employment Opportunity Announcement (EOA)	At least 3 weeks prior to start of work or when new employment opportunity becomes available.
48	Bid Tabulation **Example only. Contractor may submit own version of form.*	When Prospective sub/contractors have been selected, after procurement, prior to start of work.
49	Section 3 Utilization Plan ** Contractor may submit own version of form.*	When prospective contractors have been selected after procurement, prior to start of work.
Pg. #	**Section 3 Start of Work Compliance Documents**	**Deadline**
50	Section 3 Signage Template	Prior to Start of Work date.
51	Start of Work Notice	No later than Start of Work date.
52	Verification of Subcontractor Contract Amount	Prior to start of work of each subcontractor under $100,000 (with the exception of sole-

		suppliers).
Pg. #	**Section 3 Monthly Reporting Documents**	**Deadline**
53	Monthly Verification of Internal Capacity Status	Due on the 10th of each month after Start of Work date.
54	Section 3 Monthly Activity Report	Due on the 10th of each month after Start of Work date.
55	Section 3 New Hire/ Employee/ Trainee Participation Form	Due on the 10th of each month after Start of Work date.
Pg. #	**Termination of Work Compliance Documents**	**Deadline**
49	Final Section 3 Utilization Plan ** Contractor may submit own version of form.*	Due two weeks prior to the Termination of Work date.
56	Termination of Work Notice	No later than the Termination of Work date.
Pg. #	**GLO Section 3 Compliance Forms**	**Deadline**
58	GLO New Hires Section 3 Monthly Compliance Report	Due by the 5th of each month after Start of Work date.

Section 3 Program

a 1968 Housing and Urban Development Act

Contractor Compliance Cover Sheet

Return with Compliance Documents

Project Name	
Name of Contractor/Subcontractor	
Services to be provided:	
Company Address:	
Tax ID Number	Contract Amount
Contact Person	
Email:	
Phone Number	Fax Number:
Owner's Ethnicity/Racial Background:	

Contractor's Section 3 Compliance Certification

The undersigned makes this affidavit with full knowledge that its contents will be used in the expenditure of funds provided by the United States Government. Under penalty of perjury I hereby state:

1. I am the _____ of _____.
   (owner, partner, officer, representative, agent) (Company Name)

2. My company adheres to Section 3 of the Housing and Urban Development (HUD) Act of 1968, as amended, 12 U.S.C. 1701u which requires, to the greatest extent feasible, that a "good faith effort" given to identifying small businesses located within the boundaries of the Section 3 service area, making them aware of contracting opportunities, encouraging their participation and actually awarding contracts to Section 3 business concerns through the assistance of the City of Houston and their referral system.

3. An attempt will be made to undertake outreach activities intended to encourage participation by Section 3 residents in training and employment opportunities, to include but not be limited to utilizing the referral established by the City of Houston, the Texas Employment Commission, and Houston Works.

4. My company also acknowledges and affirms the required steps stipulated in the Code of Federal regulations 24 CFR Part **§135.38 for** any **"New"** services, i.e. employment/labor, services/materials, or subcontracting. Any violation of this requirement will present a negative impact on the performance rating of the recipient, developer, and contractor/subcontractor.

§ 135.38 Section 3 clause

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and new applicants can see. The notice shall describe the section 3 preference, set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the required qualifications for each; and the

name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts. G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

Affiant's Signature:_____ Address: _____

Affiant's Title:_____ Telephone:_____

Affiant's Company Name:_____

Subscribed and sworn to under oath before me this _____ day of _____, 20____.

_____
Notary Public Signature

My Commission Expires: _____

Notary Stamp

First Source Hiring Agreement

This agreement, is entered into this _____ day of _____, 201___, by and between the City of Houston and, hereinafter referred to as the "City", and hereinafter referred to the "Contractor", in connection with work to be performed in relation to the City's HUD-assisted project entitled, hereinafter referred to as the "project".

Whereas, HUD has promulgated certain regulations to implement Section 3 of the Housing and Urban Development (HUD) Act of 1968 (12 U.S.C. 1701u)(Section 3), which regulations were published in the Federal Register June 30, 1994 at page 33865, hereinafter referred to as the "Section 3 regulations"; and

Whereas, the purpose of Section 3 regulations is to ensure that employment and other economic opportunities generated by Section 3 covered assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low-and very low-income persons, and to business concerns, which provide economic opportunities to such persons.

Whereas, HUD has set forth numerical employment, and contracting goals to be achieved by all Community Development recipients of Section 3 covered assistance and by other recipients of such assistance in which HUD's share exceeds $200,000 per project and by those Contractors whose share of such projects exceeds $100,000; and

Whereas, the numerical goal so established by HUD applicable to the Project is set forth below; and

Whereas, recipients of Section 3-covered assistance and their contractors can demonstrate compliance with the Section 3 regulations by committing to employ Section 3 eligible persons as the applicable percentage of the aggregate number of new hires during the time period involved in the Section 3-covered project; and

Whereas, the City and the Contractor are desirous of being in compliance with the Section 3 regulations as they relate to the Project;

Now Therefore, the City and the Contractor agree as follows:

1. The Contractor and any of its subcontractors shall supply the City with a list of all full-time employees currently employed, indicating which, if any, of said employees were hired within the past three years and were also low or very low-income persons when so hired;
2. The Contractor and any of its subcontractors shall provide a listing of any and all positions for which new hires are expected to be required as a result of the Project;
3. The Contractor and any of its contractors will, to the greatest extent feasible, endeavor to hire 30% percent of the new hires generated by the Project from the following list of Section 3-eligible groups, in the order of priority listed:
    a. Section 3 residents of service area or neighborhood;
    b. Youth build participants;
    c. Homeless projects; Homeless persons; and

d. Other Section 3 residents.

4. The Contractor and any of its subcontractors will be encouraged to make new hires from the list of Section 3-eligible groups in Paragraph 3 above for any and all other projects assisted with Federal funding, whether or not such project is subject to the Section 3 regulations;
5. The Contractor and any of its subcontractors shall accept referrals of Section 3-eligible persons from the City.

Provided, however, that nothing in this agreement is to be construed requiring any party hereto, or its subcontractors, to hire any person or persons who are unqualified to or incapable of carrying out the work required of any such new hires.

Witness our hands and seals on the date first written above:

The City of Houston
Department of Housing & Community Development

by_____
Section 3 Coordinator

Contractors Name:

by_____
its Owner/President/Vice President

Permanent Employee List

Project Name:_____ Total Amount of Contract:_____

Name of Contractor:_____ Address:_____

Name of Contact Person:_____ Date:_____

Employee Names	Job Title	Certified Section 3 Resident		Monthly Salary or Hourly Rate
		Yes	No	

I certify the above employees are permanent employees of _____. I certify the above employees are on our regular monthly payroll and have their W-2 tax forms for our records. These records will are available to the City upon request, for verification purposes. I understand that falsifying information is perjury and subject to legal ramifications.

_____ _____ _____

Print Name **Signature** **Date**

Section 3 Contractor/Subcontractor
Workforce Analysis Form

ESTIMATED PROJECT WORK FORCE BREAKDOWN

	Job Category	Estimated Number of Positions Needed for Project	Number of Positions Occupied by Permanent Employees	Number of Positions Not Occupied	Number of Positions to be Filled w/ Section 3 Residents
Non-Construction	Officer/Supervisor				
	Professionals				
	Technical				
	Office/Clerical				
	Service Workers				
	Other:				
Construction	Journeymen:				
	Apprentices:				
	Laborers				
	Trainees				
	Other:				

EMPLOYMENT CERTIFICATION (make additional copies of this form if necessary)

The Company hereby certifies that the above table represents the appropriate number of employee's positions required in the execution of project_____ and also represents the number of Section 3 service area residents that the company proposes to employ. The Company certifies that it will make a good faith effort to employ the number of lower income employees stated utilizing such community-based organizations and service agencies as the Texas Employment Commission and Houston Works.

Company: _____ Title: _____

By: _____ Date: _____

Section 3 Request for Contractor/Subcontractor Clearance

Date	
HUD Project No.	
Project Name	
Project Address	
Contractor/Subcontractor	
Federal ID Number	
Address/Zip Code	
Phone Number	

☐ **Sole Proprietorship**	☐ **Partnership**	☐ **Corporation**
List Sole Owner	**List All Partners**	**Name All Principals and Titles**

Complete the following clearances, print the results, attach and return with above form:

- ☐ www.sam.gov
- ☐ https://www5.hud.gov/ecpcis/main/ECPCIS_List.jsp

Approved: _____ Date: _____

Section 3 Coordinator

Section 3 Internal Capacity Form

Affidavit:

The undersigned makes this affidavit with full knowledge of the content described in the Section 3 Program regulations at 24 CFR Part 135. Each recipient of Section 3 covered financial assistance, and its contractors or subcontractors are required to comply with the requirements of Section 3 for ***new*** employment, training, or contracting opportunities that are created during the expenditure of covered funding. This requirement applies to matters which include:

1. All construction projects for which the amount of City (HUD-sourced) assistance to the project or program exceeds $200,000.
2. All Contractor/Subcontractor situations where the individual contract or subcontract exceeds $100,000 from the City with HUD-sourced funds.

This affidavit is to document the contractor has sufficient internal capacity to execute the entire scope of work awarded without the need to subcontract and to acknowledge by the undersigned if subcontracts are required, they may be subject to additional requirements under the Section 3 program.
Under penalty of perjury I hereby state:

I, _____ am the _____ of _____,
(Print Name) (Owner, partner, officer, representative, agent) (Company Name)

which has executed a contract with _____ to perform _____
(Other Contract Party) (Description of Work)

_____ on the project known as _____
(Description of Work - Continued) (Name of Project)

and represent that the contract covered by this affidavit has met the conditions , including those described above and hereby authorize and request any person, firm or corporation to furnish any information requested by the Housing and Community Development Department in verification of the recitals comprising this _____ day of _____, 20_____.

_____
Company Name Representative Signature Title

STATE OF TEXAS)
) SS
COUNTY OF HARRIS)

_____being duly sworn, deposes and says that he/she is the _____
(Print Name) (Owner, partner, officer, representative, agent)

of _____ and that the answers to the foregoing questions and all statements therein contained are true
(Company Name)
and correct.

Notary Stamp

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____ My Commission Expires: _____
Notary Public Signature

Section 3 Ebid Announcement

Date: _____ **BID DUE BY:** _____

To: Section 3 Contractors, Labor Force, and Materials Vendors

Project: Project Name
Address
City, State Zip Code

From: _____

Summary of Work:

This project is (name of project) _____. As a General Contractor/Subcontractor, we are in need of hiring Section 3 companies/residents that can perform the following scope of work: (description and minimum qualifications)_____
_____.

If interested, please contact me as soon as possible to schedule an appointment to look at the scope of services. This project is funded through a federal grant; therefore, we encourage all qualified Section 3 Business Concerns/Residents to respond to this E-Bid for employment and Contracting Opportunities.

Contact Information:

Please email this form to _____. Should you have any questions contact: _____.

Bidder Information:

☐ Yes, I will be bidding on the project ☐ No, I will not be bidding on this project

Contract Name: _____

Company: _____

Address: _____

Phone Number: _____ Fax: _____

Email: _____

Trade/Specialty: _____

If you or your company are not certified with the City of Houston as a Section 3 Business/Resident and would like to become certified, the guidelines and application(s) are available at the following City of Houston website: http://www.houstontx.gov/housing/complianceandmonitoring.html Submit the original application to Section 3 of Compliance and Monitoring Division for processing.
The contractor is committed to "ensure employment and economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible and consistent with existing federal, state and local laws and regulations, be directed to low-and very low income persons."

Section 3 Employment Opportunity Announcement (EOA)
for procuring Labor for Section 3 Residents

DATE: *[Insert Date]* **APPLICATION DEADLINE:** ***[Insert Date/Time Due]***

TO : *Section 3 Residents*

PROJECT: *[Insert Project Name & Address]*

FROM: ***[Insert Contractor/Subcontract Name]***

POSITION NEEDED/DESCRIPTION: *[Insert position description and any required criteria]*

CONTACT INFORMATION: *[Insert contact information: Contact Name, Phone Number, Email]*

Section 3 Residents: Include this cover sheet with your application

o Yes, I am interested in this position o No, I am not interested in this position

Contact Name: _____

Address: _____

Phone Number: _____ Email: _____

Job Skills: _____

Federal Labor Standard Provisions including the Davis Bacon and Related Act may be applicable to the construction of this project.

If you know someone interested to become a certified Resident or Business Concern, the guidelines and application are available online at: http://www.houstontx.gov/housing/complianceandmonitoring.html

Housing and Community Development Department (HCDD) Section 3 Program is committed to ensure that employment and economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible and consistent with existing federal, state and local laws and regulations, be directed to low-and very low income persons.

Sample Bid Tabulation

Date: _____

Project: ___

COST CODE:

UNITS: 0

SF: 0

Projected Budget _____

SUBCONTRACTORS	BID AMOUNT		COST BREAKDOWN
	$0.00		per unit per square foot
	$0.00		per unit per square foot
	$0.00		per unit per square foot
	$0.00		per unit per square foot
	$0.00		per unit per square foot

Recommendation:			**Labor**	$ -	**PM:**
Contact Name:			**Material**	$ -	
Company Address:			**TOTAL:**	$ -	**SPM:**
Phone Number:			**CONTRACT:**	( )	**VP:**
E-Mail:			**P.O.:**	( )	

Section 3 Utilization Plan

A Utilization Plan is required by all contractors, including the Owner/Developer, with a contract amount greater than or equal to $100,000 and are NOT solely suppliers. Submit an initial Utilization Plan at the receipt of the NOIA and then once every three months or when there is a change to utilization or contract amounts, whichever comes first.

Owner/Developer, Prime Contractor & Subcontractors – The 10% hard cost goal is only applicable when there is a need to contract out to hard cost subcontractors or lower-tier subcontractors, excluding suppliers. The 10% goal is calculated based on the total contract amount. The 3% soft cost goal is only applicable when there is a need for professional services/soft cost. The 3% is calculated based on the soft cost budget, not the total contract amount.

1A. Date Submitted	1B. Project Name	1C. Owner/Developer or Sub/Contractor Name	1D. Contact Person	1E. Phone Number
	2A. Total Contract Amount	2B. Required 10% Hard Cost Goal	2C. Achieved 10% Hard Cost Goal	2D. 10% Hard Cost Goal Met?
	3A. Soft Cost Budget (N/A if not applicable)	3B. Required 3% Soft Cost Goal	3C. Achieved 3% Soft Cost Goal	3D. 3% Soft Cost Goal Met?

Name of Subcontractor	Section 3 Certified? YES | NO		Trade/Service or Supply	Contract Amount	Address & Phone Number
Construction Costs/Hard Cost					
Professional Services/Soft Cost					
Suppliers					

Signage Template

Housing and Community Development Department

In partnership with the U.S. Department of Housing and Urban Development, and [Project Name]

_____

Acknowledge that the Construction of this project is subject to the Section 3 plan of the U.S. Department of Housing and Urban Development. This program is designed to generate various Employment and Contracting Opportunities.

Please inquire within:
Contractor name and contact number/Email:

- _____
- _____

Section 3 Start of Work Notice

Contractor Information

Project Name	
Project Address	
Sub/Contractor Name	
Sub/Contractor Address	
Start of Work Date	

Contractor Authorization

Name of Authorized Officer	
Signature	
Title	

Please submit Start of Work Notice for each contractor/subcontractor prior to the start of construction via mail or email:

City of Houston HCDD
Section 3 Program
601 Sawyer Street, 4th Floor
Houston, Texas 77007
Email: Krystal.Shultz@houstontx.gov

Confirmation of Subcontractor Contract Amount

Project Name: _____

Subcontractor Name: _____

Signed Into Contract With: _____

Original Contract Amount: _____

Start of Work Date: _____

Contract Amount at Start of Work Date: _____

Contract Amount Less Than $100,000

If the contract amount has stayed below $100,000 by the Subcontractor's start of work date, the Subcontractor is not required to comply with Section 3 due to the contract amount not meeting the minimum threshold. Sign below and submit form.

I hereby confirm that the above Subcontractor's contract amount has stayed below the $100,000 threshold by the start of work date stated above.

_____

Print Name | Title/Company | Signature | Date

Contract Amount Equal to or Greater Than $100,000

If the contract amount has increased to $100,000 or above on or before the start of work date, the Subcontractor is required to comply with the Section 3 federal regulations and the City of Houston's HCDD Section 3 policy and procedures set forth in the Section 3 Contractor Orientation Guide. Sign below and submit form.

I hereby confirm that the above Subcontractor's contract amount has met the minimum threshold and I understand that the Subcontractor is now required to comply with the Section 3 federal regulations and the City of Houston's HCDD Section 3 policy and procedures set forth in the Section 3 Contractor Orientation Guide.

_____

Print Name | Title/Company | Signature | Date

Monthly Verification of Internal Capacity Status

This form is to be completed and submitted by the 10th of each month by every Subcontractor claiming Internal Capacity, for the duration of their contract. Always report for the previous month; for example, when the form is due on July 10th, you will be reporting the activity of June.

Reporting Month:	**Project Name**
Subcontractor	**Contracted With**

By signing below, I hereby verify that my company has remained in the qualifying Internal Capacity parameters stated below:

- No Lower-Tier Subcontracts have been awarded, and/or
- No New Hires (employees placed on payroll) have been hired to work specifically on the project stated above.

By signing below, I also verify that I understand that in the event my company has the need for lower-tier subcontracts and/or new hires, I will immediately alert the General Contractor and will follow the below Section 3 Procurement Processes. I also understand that my company can no longer claim Internal Capacity and will be required to comply with all Section 3 requirements that are now applicable.

Section 3 Procurement Process for Lower-Tier Subcontractors

1. Subcontractor will submit **Ebid Announcement** that lists scope of work, contact information and a bid due date (minimum is two weeks). Subcontractors should submit Ebid directly to General Contractor.
    a. Ebid will be forwarded to HCDD, and will then be sent to all Section 3 Businesses.
2. Subcontractor will review all bids received and will award contract based on the Section 3 procurement guidelines, depending if bids are construction or non-construction:
    a. 10% of construction contract must be awarded to Section 3 Business.
    b. 3% of soft cost (non-construction) budget must be awarded to Section 3 Business.
3. Subcontractor will submit a **Bid Tabulation** after all bids have been received. The bid tabulation should indicate which awarded contracts were to a Section 3 Business.
4. Subcontractor will submit a **Utilization Plan** that lists all Lower-Tier Subcontractors, Professional Services and Suppliers being utilized. The template is provided on page 46 of the Section 3 Contractor Orientation Guide.

Section 3 Procurement Process for New Hires

1. Subcontractor will submit an Employment Opportunity Announcement (EOA) that lists position details, applicant qualifications, contact information and application deadline. EOA will be submitted directly to the General Contractor.
    a. EOA will be forwarded to HCDD and will then be sent to all certified Section 3 Residents.
2. Subcontractor will hold interviews and determine how the 30% New Hire Goal will be met.
    a. For example, if 10 new hires are needed, at least 3 must be either:
        i. Currently certified as a Section 3 Resident
        ii. Qualifies as a Section 3 Resident (required to complete Section 3 Resident Application)
3. Subcontractor will notify the General Contractor of hiring results and will submit the following:
    a. Statement indicating how the 30% New Hire Goal was met, list of new hire names and Section 3 Resident status.
    b. Section 3 Resident Applications for new hires that must be certified in order to meet the 30% New Hire Goal.
4. Subcontractor will start submitting monthly reporting and any other additional documents needed for the duration of their contract.

Print Name	Title/Company	Signature	Date

Section 3 Monthly Activity Report

Contractor Name	Project Name
Contractor Address	Contract Amount
Contact Person	Reporting Month
Phone Number / Email	Date of Submission

Employment and Training

A	B				C		D			
Job Category	New Hires ☐ No New Hires				Employees		Trainees ☐ No Trainees			
	Section 3 New Hires*		Non-Section 3 New Hires		Section 3 Employees*	Non-Section 3 Employees	Section 3 Trainees* Previously Reported That Worked This Month		New Section 3 Trainees* Reporting for the First Time	
	# of New Hires	Hours Worked	# of New Hires	Hours Worked	Hours Worked	Hours Worked	# of Trainees	Hours Worked	# of Trainees	Hours Worked
Professional										
Technician										
Office/Clerical										
Trade:										
Trade:										
Trade:										
Trade:										
Other:										
Other:										
TOTAL										

***Include individuals on the Section 3 New Hire/ Employee/ Trainee Participation Form. Regardless if information was previously reported, all Section 3 individuals who've worked/trained during reporting month must be included.**

NOTES:

1. New Section 3 Trainees should NOT be included in the New Hire numbers.
2. New Hires become Employees the following reporting month.
3. A report for each contractor/subcontractor with a contract equal to or greater than $100,000 must be submitted by the 10th of each month with numbers from the previous month. For example, on October 10th the numbers for September will be submitted.
4. Subcontractors submit to General Contractor before the 10th and then the General Contractor will submit to Section 3 by the 10th.

Section 3 New Hire/ Employee/ Trainee Participation Form

To be used in conjunction with the Section 3 Monthly Activity Report

Contractor Name:	Reporting Month/Year:

A. First Name	B. Last Name	C. Racial/ Ethnic Code	D. Hire Date	E. Hourly Rate	F. Section 3 Status	G. Trade Work	H. Hours Worked	I. Hours Trained	J. Payroll Classification

Form Instructions

A **First name** of Section 3 Resident
B **Last name** of Section 3 Resident
C **Racial/ethnic code**: **1** – White American, **2** – Black American, **3** – Native American, **4** – Hispanic American, **5** – Asian Pacific American, **6** – Hasidic Jew
D **Hire date** of Section 3 Resident
E **Hourly rate** of Section 3 Resident
F Indicate **Section 3 status** by entering either: **New Hire**, **Employee** or **Trainee**
G **Trade work** performed by Section Resident
H **Hours worked** during reporting month by **Section 3 New Hire** or **Section 3 Employee**
I **Hours trained** during reporting month by **Section 3 Trainee**
J Indicate **payroll classification**: **Full Time, Part Time, FT - Temporary, PT- Temporary, FT-Seasonal, PT-Seasonal, Internship**

Section 3 Termination of Work Notice

Contractor Information

Project Name	
Project Address	
Sub/Contractor Name	
Sub/Contractor Address	
Termination of Work Date	

Contractor Authorization

Name of Authorized Officer	
Signature	
Title	

Please submit Termination of Work Notice for each contractor/subcontractor at the termination of construction via mail or email:

City of Houston HCDD
Section 3 Program
601 Sawyer Street, 4th Floor
Houston, Texas 77007
Email: Krystal.Shultz@houstontx.gov

Texas General Land Office (GLO) Section 3 Forms

The following Texas GLO Section 3 compliance forms are required to be submitted by the Prime Contractor and Subcontractor if the project is funded in whole or in part by CDBG-DR funds provided by the Texas GLO.

For more information about the Texas GLO and their Section 3 Program, visit their website at www.glo.texas.gov.

The following form(s) do not contain printed page numbers, but are assigned a page number when referenced as a hard copy. Even though the Texas GLO has several Section 3 compliance forms available, only the form(s) listed below are required to be submitted by the General Contractor and Subcontractor on City of Houston's HCDD-monitored projects at this time.

If you are viewing this Section 3 Contractor Orientation Guide online, the following form(s) will not be included due to the inability to combine regular PDFs with PDF XML forms.

To view the GLO Section 3 Forms online, please use one of the following access points:

1. City of Houston Section 3 Website, under Texas GLO Section 3 Forms
2. Texas GLO Section 3 Website, under Section 3 Forms
3. Request forms directly from the Section 3 Coordinator

Page #	Texas GLO Section 3 Compliance Form
58	Exhibit I - New Hires Section 3 Monthly Compliance Report